

### **REMARKS**

In response to the Office Action January 6, 2010, Applicants respectfully request reconsideration. Prior to entry of this Amendment, claims 1-10 were pending for examination, with claim 1 being independent claim. In this paper, claims 1 and 3 have been cancelled without prejudice, dependent claim 4 has been rewritten in independent form, including all of the limitations of its base independent claim 1 and intervening dependent claim 3, and dependent claims 2 and 5 - 10 have been amended to update their dependencies.

In addition, some of pending claims have been amended to conform to current U.S. patent practice, including removing of reference numerals, correcting one or more informalities, and/or replacing European-style claim phraseology with U.S.-style claim language, without addressing any issues of patentability.

No new matter has been introduced, support for the claim amendments being found in the original claims.

#### **Claim Rejections under 35 U.S.C. §102**

Claims 1-3 and 7 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by West (US 6,974,229). Applicants have cancelled independent claim 1, as well as dependent claim 3, rendering this rejection moot with respect to these claims. As explained below, claims 2 and 7 now depend from amended claim 4 that is believed to be in condition for allowance.

#### **Claim Rejections under 35 U.S.C. §103**

Claims 4 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over West in view of Rosenitsch (US 5,819,454). Also, claims 5, 6, 8, 9 and 10 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over West and further in view of Burrows (US 4,181,815).

Applicants respectfully submit, however, that West is disqualified as prior art to claim 4 and all claims dependent therefrom under 35 U.S.C. §103(c), because this 102(e) reference and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." See MPEP 706.02(k). Specifically, the

underlying international application, of which this application is a national phase, was assigned to **Koninklijke Philips Electronics, N.V.** ("KPENV") on June 17, 2004, as recorded by the USPTO on May 19, 2008 at Reel 020964, Frame 0506. The invention claimed herein was first disclosed in a priority European application Serial No. 03101926.8 filed on June 27, 2003. Further, U.S. Patent No. 6,974,229 to West is owned by **Lumileds Lighting LLC** since May of 2003, as recorded by the USPTO at Reel 014105, Frame 0119. Applicants note that in 2003, Lumileds Lighting LLC was a 50/50 joint venture equally owned by KPENV and Agilent Technologies. See 2003 KPENV Annual Report (available for download at [http://www.philips.com/shared/assets/Downloadablefile/ManagementReport\\_AR03-2811.pdf](http://www.philips.com/shared/assets/Downloadablefile/ManagementReport_AR03-2811.pdf)). Thus, like all other assets of Lumileds Lighting LLC, the West reference was owned by KPENV jointly with another party. For that reason, Applicants respectfully submit that West is disqualified as prior art to claim 4 and all claims dependent therefrom under 35 U.S.C. §103(c). Reconsideration and withdrawal of this rejection is therefore respectfully requested.

Dependent claims 2 and 5 - 10.

Since each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicants believe that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. Applicants do not, however, necessarily concur with the interpretation of any dependent claim as set forth in the Office Action, nor do Applicants concur that the basis for the rejection of any dependent claim is proper. Therefore, Applicants reserve the right to further address the patentability of the dependent claims in the future, if deemed necessary.

### CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is an additional fee occasioned by this response, please charge any deficiency to Deposit Account No. 141270.

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Respectfully submitted,

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